

REMARKS

Claims 1-25 currently appear in this application. Claims 4-25 have been withdrawn. The Office Action of September 29, 2008, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicant respectfully requests favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

Double Patenting

Claims 1-3 are provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over claim 1 of copending application No. 11/408,108, Orlow et al., in view of Ancans et al., *FEBS Letters* **478** (2000) 57-60 and Hopkins et al., *Biochemistry* 2000, **39**:2805-2814.

This rejection is respectfully traversed. Compound 58616 in Hopkins is a fluorescein compound, and, because it has the same activity as other fluorescein compounds, one skilled in the art would expect that the inhibition is related to the fluorescein moiety, not to the trisubstituted triazine moiety. In fact, there is nothing in Hopkins that even suggests that a trisubstituted triazine would have the inhibitory activity displayed by the compounds disclosed in

the article. The fact that Ancans discloses that ATPase activates melaongenesis is immaterial, because there is no indication that trisubstituted triazines have this characteristic. Accordingly, there is no suggestion in the combination of Orlow, Hopkins and Ancans that trisubstituted triazines can be used to screen test compounds to determine if the test compounds inhibit or stimulate pigmentation.

Additionally, Orlow has nothing to do with screening for pigmentation stimulation.

Rejections under 35 U.S.C. 112

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification is said to be enabling only for a method for screening trisubstituted triazines that interact with prohobitin or mitochondrial ATPase.

This rejection is respectfully traversed. Claim 1 has been amended to limit the screened compounds to trisubstituted triazines.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite tor failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "other agents" is said to render the claim indefinite.

This rejection is respectfully traversed. Claim 1 has been amended to limit the screened compounds to trisubstituted triazines.

Art Rejections

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imokawa, *Journal of Investigative Dermatology*, **93(1)**:100-107, 1989 in view of Ancans and Hopkins.

This rejection is respectfully traversed. As noted above, Hopkins does not disclose that trisubstituted triazines interact with prohibitin or mitochondrial ATPase, but rather teaches that fluorescein compounds react with prohibitin or mitochondrial ATPase. One skilled in the art reading Hopkins would see that it is fluorescein compounds, not trisubstituted triazines, that inhibited ATPase activity. Therefore, there is no reason that one skilled in the art would screen trisubstituted triazine compounds for inhibition or stimulation of pigmentation based upon the disclosures of Imokawa, Hopkins and Ancans.

Appln. No. 10/821,981
Amd. dated January 12, 2009
Reply to Office Action of September 29, 2008

In view of the above, it is respectfully submitted
that the claims are now in condition for allowance, and
favorable action thereon is earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By: 

Anne M. Kornbau
Registration No. 25,884

AMK:srd
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\N\NYUM\ORLOW 1A\pto\2009-01-12Amendment.doc